BEFORE THE MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:)))
Tahir Yaqub, M.D.) Case No. 800-2017-036209
Physician's and Surgeon's	<u> </u>
Certificate No. A 96088) .
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Respondent)
	_) .

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 7, 2019.

IT IS SO ORDERED May 8, 2019.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair

Panel B

1	XAVIER BECERRA Attorney General of California					
2	STEVE DIEHL					
3	Supervising Deputy Attorney General MICHAEL C. BRUMMEL	•				
٠,	Deputy Attorney General	•				
4	State Bar No. 236116					
5	California Department of Justice 2550 Mariposa Mall, Room 5090					
	Fresno, CA 93721					
6	Telephone: (559) 705-2307 Facsimile: (559) 445-5106	•				
7	E-mail: Michael Brummel@doj.ca.gov					
8	Attorneys for Complainant					
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	BEFOR	E THE				
10	MEDICAL BOARD					
11	DEPARTMENT OF C					
	STATE OF C	ALIFORNIA				
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14	In the Matter of the Accusation Against:	Case No. 800-2017-036209				
15	TAHIR YAQUB, M.D.	OAH No. 2019011026				
16	1775 Third Street Atwater, CA 95301					
16	Atwater, CA 93301	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER				
17	Physician's and Surgeon's Certificate No. A 96088	DISCH ENVART ORDER				
18	Pagnandant					
19	Respondent.	·				
20	IT IS HEREBY STIPULATED AND AGR	EED by and between the parties to the above-				
21	entitled proceedings that the following matters are	e true:				
22	PART	ries				
23		is the Executive Director of the Medical Board				
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25	this matter by Xavier Becerra, Attorney General c	of the State of California, by Michael C.				
26	Brummel, Deputy Attorney General.	•				
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STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (800-2017-036209)

- 2. Respondent Tahir Yaqub, M.D. (Respondent) is represented in this proceeding by attorney George L. Strasser, Esq., whose address is: 7690 North Palm Ave., Suite 105 Fresno, CA 93711.
- 3. On or about June 21, 2006, the Board issued Physician's and Surgeon's Certificate No. A 96088 to Tahir Yaqub, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-036209, and will expire on December 31, 2019, unless renewed.

JURISDICTION

- 4. Accusation No. 800-2017-036209 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 22, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.
- 5. A copy of Accusation No. 800-2017-036209 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-036209. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

- 9. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-036209 and that he has thereby subjected his license to disciplinary action.
- 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

- 11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent's Physician's and Surgeon's Certificate No. A 96088, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's medical record keeping and quality of care in the care and treatment of a single patient as set forth in Accusation No. 800-2017-036209, is as follows:

This Public Reprimand is issued pursuant to Code section 2227 as a result of the allegations as set forth in the Accusation.

B. PRESCRIBING PRACTICES COURSE.

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

C. MEDICAL RECORD KEEPING COURSE.

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

D. FAILURE TO COMPLY

Any failure by Respondent to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and grounds for further disciplinary action.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, George L. Strasser, Esq.. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

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March 14, 2019

Respondent

I have read and fully discussed with Respondent Tahir Yaqub, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

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Dated:

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Respectfully submitted,

XAVIER BECERRA Attorney General of California STEVE DIEHL Supervising Deputy Attorney General

MICHAEL C. BRUMMEL Deputy Attorney General Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, George L. Strasser, Esq.. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

TAHIR YAQUB, M.D.

Respondent

I have read and fully discussed with Respondent Tahir Yaqub, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

GEORGE L. STRASSER, ESQ. Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 3/15/2019

Respectfully submitted,

XAVIER BECERRA Attorney General of California STEVE DIEHL Supervising Deputy Attorney General

MICHAEL C. BRUMMEL Deputy Attorney General Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-036209

FILED STATE OF CALIFORNIA MEDICAL BOARD OF CALIFORNIA XAVIER BECERRA SACRAMENTO HUA 22 20 18 Attorney General of California BY D. Richan 2 STEVEN D. MUNI Supervising Deputy Attorney General 3 MICHAEL C. BRUMMEL Deputy Attorney General 4 State Bar No. 236116 Department of Justice 5 2550 Mariposa Mall, Room 5090 Fresno, CA 93721 Telephone: (559) 705-2307 Facsimile: (559) 445-5106 6 7 E-mail: Michael Brummel @doj.ca.gov 8 Attorneys for Complainant 10 BEFORE THE MEDICAL BOARD OF CALIFORNIA 11 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 12 13 In the Matter of the Accusation Against: Case No. 800-2017-036209 14 ACCUSATION Tahir Yaqub, M.D. 1775 Third Street 15 Atwater, CA 95301 16 Physician's and Surgeon's Certificate No. A 96088, 17 Respondent. 18 19 Complainant alleges: 20 **PARTIES** 21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official 22 capacity as the Executive Director of the Medical Board of California, Department of Consumer 23 Affairs (Board). 24 2. On or about June 21, 2006, the Medical Board issued Physician's and Surgeon's 25 License No. A 96088 to Tahir Yaqub, M.D. (Respondent). The Physician's and Surgeon's 26 Certificate was in full force and effect at all times relevant to the charges brought herein and will ·27· expire on December 31, 2019, unless renewed. 28 111

(TAHIR YAQUB, M.D.) ACCUSATION NO. 800-2017-036209

JURISDICTION

- 3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
 - 4. Section 2227 of the Code states:
- "(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
 - "(1) Have his or her license revoked upon order of the board.
- "(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
- "(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
- "(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
- "(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
- "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."
 - 5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

- "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
 - "(b) Gross negligence.
- "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
- "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
- "(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

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6. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

7. Respondent has subjected his Physician's and Surgeon's License No. A 96088 to disciplinary action under section 2227, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in the care and treatment of Patient A, as more particularly alleged hereafter:

PATIENT A1

8. On or about June 27, 2011, Patient A presented to Respondent for treatment for the first time. Patient A had previously received treatment from another physician at Respondent's

¹ To protect the privacy of patients, individual names are not identified in this Accusation.

including lower back pain, osteoarthritis, bilateral knee and hip pain, depression, peripheral neuropathy, fibromyalgia, rheumatoid arthritis, osteoporosis, asthma, vitamin D deficiency, and gastritis. Respondent typically documented a very brief encounter with Patient A that included minimal handwritten notes, no documented physical examination or treatment plan. Respondent documented providing informed consent to Patient A relating to the use of controlled substances and required her to sign a controlled substances agreement. Respondent prescribed controlled substances to Patient A at almost every patient encounter. While Patient A was receiving treatment from Respondent, a number of other health care providers also prescribed her controlled substances.

practice since 2008. Patient A was receiving treatment for a number of medical conditions

- 9. On or about July 10, 2011, Patient A sought treatment from Respondent for her continued back pain. Respondent did not document any information at all related to a review of systems, physical examination or history of Patient A's back pain.
- 10. On or about August 23, 2011, Patient A sought treatment from Respondent for her continued back pain. Respondent previously referred Patient A to a pain management clinic for evaluation. The medical records contain a handwritten note indicating that Patient A was failing to set up an appointment with the pain management clinic.
- 11. On or about October 11, 2011, Patient A signed a pain contract with Respondent. Per the terms of the contract, Patient A agreed that she would not seek early refills, and that she would not obtain controlled substances from any other doctors. Patient A was required to "bring pain medications to every office visit..."
- 12. On or about October 18, 2011, Patient A returned to Respondent reporting that she had recently passed out when getting up from a toilet seat. Patient A explained that she had injured both of her legs and was treated at the hospital for a possible fracture to her right femur. Respondent admitted to investigators that Patient A, an elderly patient passing out at home, was a red flag for possible opiate abuse.

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- 13. On or about November 29, 2011, Patient A returned to Respondent for treatment of her pain. Respondent wrote in the medical records that she was non-compliant because she did not bring her medications to the visit. Respondent told investigators from the Board that he believes that someone else brought the bottles to the office later on behalf of Patient A, although it is not documented in the medical records. Despite the note that Patient A was non-compliant and in violation of the pain contract, Respondent provided her with refills for her controlled substances.
- 14. Respondent provided treatment to Patient A approximately 9 times in 2011.

 According to the CURES report for Patient A, during the period of on or about July 1, 2011, through on or about December 2, 2011, Patient A filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
7/1/2011	METHADONE HCL	10 MG ·	168	RESPONDENT
7/5/2011	ZOLPIDEM TARTRATE	10 MG	30	M.C., M.D.
7/12/2011	METHADONE HCL	10 MG	126	RESPONDENT
7/14/2011	DIAZEPAM	5 MG	90	N.C., M.D.
7/19/2011	TEMAZEPAM	15 MG	30	M.C., M.D.
7/21/2011	METHADONE HCL	10 MG	270	RESPONDENT
8/3/2011	TEMAZEPAM	30 MG	5	M.C., M.D.
8/16/2011	·DIAZEPAM	5 MG	90	N.C., M.D.
8/23/2011	METHADONE HCL	10 MG	240	RESPONDENT
9/6/2011	TEMAZEPAM	30 MG	· 30	M.C., M.D.
9/6/2011	CLONAZEPAM	.5 MG	60	M.C., M.D.
9/21/2011	MÉTHADONE HCL	10 MG	240	RESPONDENT
10/3/2011	DIAZEPAM	5 MG	90	W.C., M.D.
10/5/2011	ALPRAZOLAM	1 MG	60	M.C., M.D.
10/26/2011	HYDROCODONE BITARTRATE ACETAMINOPHEN	750 MG / 7.5 MG	10_	W.R., M.D.
10/27/2011	HYDROCODONE BITARTRATE ACETAMINOPHEN	325 MG / 10 MG	40	S.T., M.D.
11/3/2011	METHADONE HCL	10 MG	240	RESPONDENT
11/3/2011	METHADONE HCL	10 MG	90	RESPONDENT
11/30/2011	METHADONE HCL	10 MG	240	RESPONDENT
12/1/2011	HYDROCODONE BITARTRATE ACETAMINOPHEN	325 MG / 10 MG	40	S.T., M.D.
12/2/2011		10 MG	30	RESPONDENT

- 15. On or about January 24, 2012, Patient A presented to Respondent complaining of pain from a fall approximately one week earlier.
- 16. On or about February 22, 2012, Patient A returned to Respondent seeking early refills of controlled substances in violation of the pain contract.
- 17. On or about March 20, 2012, Patient A returned to Respondent seeking early refills of controlled substances in violation of the pain contract.
- 18. Respondent provided treatment to Patient A approximately 7 times in 2012.

 According to the CURES report for Patient A, during the period of on or about January 5, 2012, through on or about April 11, 2012, Patient A filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
1/5/2012	DIAZEPAM	5 MG	60	RESPONDENT
1/5/2012	METHADONE HCL	10 MG	240	RESPONDENT
1/5/2012	METHADONE HCL	10 MG	30	RESPONDENT
1/16/2012	HYDROCODONE BITARTRATE ACETAMINOPHEN	325 MG / 10 MG	30	S.T., M.D.
1/30/2012	DIAZEPAM	5 MG	30	RESPONDENT
1/30/2012	METHADONE HCL	10 MG	240	RESPONDENT
1/30/2012	METHADONE HCL	10 MG	30	RESPONDENT
1/31/2012	HYDROCODONE BITARTRATE ACETAMINOPHEN	325 MG / 10 MG	30	S.T., M.D.
2/22/2012	METHADONE HCL	10 MG	30	RESPONDENT
· 2/23/2012	ALPRAZOLAM	1 MG	30	M.C., M.D.
2/25/2012	DIAZEPAM	5 MG	30	RESPONDENT
2/25/2012	METHADONE HCL	10 MG	240	RESPONDENT
3/20/2012	METHADONE HCL	10 MG	30	RESPONDENT
3/21/2012	DIAZEPAM ·	5 MG	- 30	RESPONDENT
3/21/2012	METHADONE HCL	10 MG	240	RESPONDENT
4/9/2012	METHADONE HCL	10 MG	30	RESPONDENT
4/10/2012	CLONAZEPAM	1 MG	30	M.C., M.D.
4/10/2012	ALPRAZOLAM	1 MG	30	M.C., M.D.
4/11/2012	DIAZEPAM	5 MG	30	RESPONDENT
4/11/2012	METHADONE HCL	10 MG	240	RESPONDENT .

- 19. Respondent failed to document an adequate history and physical for Patient A. Respondent documented that Patient A's history included drug and alcohol use, but failed to document any supporting information regarding the nature, duration, frequency, or prior treatments, if any. Respondent did not document the etiology, location, radiation, or intensity of Patient A's pain. Respondent did not document any factors that aggravated or relieved Patient A's pain, or the impact of the pain on her quality of life. Respondent did not document any specific concerns about the large amounts of controlled substances prescribed to Patient A. Respondent did not document any concern regarding Patient A's violation of her pain contract by obtaining controlled substances from other health care professionals and seeking early refills. Respondent failed to document a musculoskeletal examination or a focused examination of Patient A's lumbar spine.
- 20. Respondent failed to document an adequate treatment plan for Patient A, despite more than 10 months of treating Patient A and prescribing controlled substances. Respondent did not document any objectives for the treatment of Patient A. Respondent did not pursue any diagnostic evaluations or refer Patient A to rehabilitation or physical therapy for her pain. Respondent failed to document attempts to obtain and review prior treatment records including prior diagnostic studies related to Patient A's pain.
- 21. Respondent failed to document a periodic review of Patient A's pain management during the time he was prescribing controlled substances. Respondent failed to review and/or document review of the CURES reports related to Patient A. A periodic review of Patient A's CURES report and pain management treatment at appropriate intervals would have revealed patterns of abuse including early refills, and obtaining controlled substances from multiple health care professionals concurrently.
- 22. Respondent failed to maintain adequate and accurate medical records in the care and treatment of Patient A. Respondent's medical records for Patient A were on template forms with checkboxes for symptoms and conditions. Respondent failed to document adequate information related to the physical examination, evaluations, consultations, treatment plans, objectives, informed consent, prescribing and periodic review related to the care and treatment of Patient A.